

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR. ) THURSDAY, THE 10TH  
JUSTICE PENNY ) DAY OF MARCH, 2022  
)

B E T W E E N:

**PS HOLDINGS 1 LLC, PS HOLDINGS 2 LLC and PS HOLDINGS 3 LLC**

Applicants

-AND-

**2738283 ONTARIO INC., 2738284 ONTARIO INC. and 2738285 ONTARIO INC.**

Respondents

**IN THE MATTER OF THE RECEIVERSHIP OF 2738283 ONTARIO INC., 2738284  
ONTARIO INC. and 2738285 ONTARIO INC.**

**AND IN THE MATTER OF Section 101 of the *Courts of Justice Act*, R.S.O. 1990 c.C.43, as  
amended, and in the matter of Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C.  
1985, c. B-3, as amended**

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by MNP Ltd., in its capacity as the Court-appointed receiver of the Respondents (in such capacity, the “**Receiver**”) for an order, *inter alia*: (i) approving the sale transaction (the “**Transaction**”) contemplated by an asset purchase agreement (the “**Purchase Agreement**”) between the Receiver and 2771280 Ontario Inc. d/b/a Ark Capital Group, as assigned to Essa Rd Development Ltd. (the “**Purchaser**”) dated February 4, 2022, appended to the First Report of the Receiver dated March 3, 2022 (the “**First Report**”), and vesting in the Purchaser all of the Respondents’ right, title and interest in the Purchased Assets (as defined

below); (ii) authorizing the distribution of certain proceeds of sale from the Transaction, as described below; (iii) sealing the confidential appendices attached to the First Report; and (iv) approving the First Report and the activities of the Receiver described therein and the fees of the Receiver and its counsel, was heard this day by Zoom judicial video conference due to the COVID-19 pandemic.

**ON READING** the First Report and the Appendices thereto, the Fee Affidavit of Deborah Hornbostel sworn February 24, 2022 (the “**Hornbostel Affidavit**”), the Fee Affidavit of Robert Thornton sworn March 3, 2022 (the “**Thornton Affidavit**”) and such further materials as counsel may advise, and on hearing submissions from counsel to the Receiver, counsel to the Purchaser, and counsel to those parties listed on the counsel list for today’s hearing, and no one else appearing for any other interested person, although duly served as evidenced by the Affidavit of Service of Rachel Nicholson sworn March 4, 2022, filed.

## **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used herein that are otherwise not defined shall have the meaning ascribed to them in the First Report.

## **APPROVAL OF TRANSACTION**

3. **THIS COURT ORDERS AND DECLARES** that the Purchase Agreement and the Transaction be and are hereby approved and that the execution of the Purchase Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver, with the written consent of the Purchaser, may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser, substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all of the Respondents' right, title and interest in and to the real property described in Schedule "B" hereto (together with all buildings thereon, improvements, and chattels situate therein, the "**Purchased Assets**") shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of Justice Penny dated November 9, 2021; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), the *Construction Act* (Ontario), the *Execution Act* (Ontario) or any other personal property registry system; (iii) those Claims listed on Schedule "C" hereto; and (iv) any Claims registered against the Purchased Assets from the date of this Order until the closing date of the Transaction (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule "D" hereto). For greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. **THIS COURT ORDERS** that upon the registration in the Land Registry Office #51 for the Land Titles Division of Simcoe ("**Land Registry Office**") of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, or, if acceptable to the Land Registry Office, upon presentation of a copy of this Order and the Receiver's Certificate, the Land Registrar is hereby directed to enter the Purchaser as the owner of the Purchased Assets identified in Schedule "B" hereto in fee simple, and is hereby directed to discharge, release, delete and expunge from title to the Purchased Assets all of the Claims and Encumbrances, including those listed in Schedule "C" hereto (except, for greater certainty, the Permitted Encumbrances listed on Schedule "D" hereto).

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims and Encumbrances, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate, all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

7. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court with a copy of the Receiver's Certificate forthwith after delivery thereof.

8. **THIS COURT ORDERS** that this Order may be registered on title to the Purchased Assets, separately from the Application for Vesting order, by way of an Application to Register Court Order or an Application to Amend Based on Court Order, if required by the Land Registrar.

9. **THIS COURT ORDERS** that this Order, and any related Application, Notice or other registration, shall be deleted from title to the Purchased Assets after the Purchased Assets are transferred by the Purchaser, to a third party without further application to this Court, and that the Land Registry Office is hereby authorized to delete this Order or any related Application, Notice or other registration from title to the Purchased Assets.

10. **THIS COURT ORDERS** that, notwithstanding:

- a. the pendency of these proceedings;
- b. any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**") in respect of any of the Respondents and any bankruptcy order issued pursuant to any such applications;  
and
- c. any assignment in bankruptcy made in respect of any of the Respondents;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the Respondents and shall not be void or voidable by creditors of the Respondents, nor shall it constitute nor be deemed to be a

fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

## **SEALING**

11. **THIS COURT ORDERS** that Confidential Appendices “1”, “2”, “3” and “4”, being, respectively, (i) the unredacted ReMax Listing Agreement, (ii) an unredacted summary of the Listing Proposals received from the Brokers, (iii) a summary of the offers received by the bidders in the Sale Process, and (iv) the unredacted Purchase Agreement, are hereby sealed pending closing of the Transaction and further order of the Court, and shall not form part of the public record.

## **DISTRIBUTIONS**

12. **THIS COURT ORDERS** that, upon the Receiver receiving satisfactory payout statements, in the Receiver’s sole discretion, the Receiver is authorized and directed to make the following distributions from the sale proceeds arising from the sale of the Purchased Assets:

- (a) first, repayment of the Receiver’s Borrowing from 683728 Ontario Ltd. in the amount of \$13,500;
- (b) second, the outstanding indebtedness owing to the City of Barrie by the Respondents in respect of property tax arrears in relation to the Purchased Assets;
- (c) third, the outstanding indebtedness owed by the Respondents to PS Holdings 1 LLC, PS Holdings 2 LLC and PS Holdings 3 LLC, in satisfaction in full of their secured claim against the Purchased Assets;
- (d) fourth, the outstanding indebtedness owed by the Respondents to RPN Finance Corp. and 1938272 Ontario Ltd., in satisfaction in full of its secured claim against the Purchased Assets;

- (e) fifth, the outstanding indebtedness owed by the Respondents to Computershare Trust Company of Canada, in satisfaction in full of its secured claim against the Purchased Assets;
- (f) sixth, with respect to the real property municipally known as 674 Essa Road, Barrie, Ontario (the “**Essa Property**”) owned by 2738285 Ontario Inc., the outstanding indebtedness owed by 2738285 Ontario Inc. to SVN Architects + Planners Inc., in satisfaction in full of its secured claim against the Essa Property;
- (g) seventh, the outstanding indebtedness owed by the Respondents to John DaRe, in satisfaction in full of his secured claim against the Purchased Assets;
- (h) eighth, the outstanding indebtedness owed by the Respondents to Maria Louise Larsen, in satisfaction in full of her secured claim against the Purchased Assets; and
- (i) ninth, the outstanding indebtedness owed by the Respondents to Glen Schnarr & Associates Inc. in satisfaction in full of its construction lien claim against the Purchased Assets.

#### **APPROVAL OF ACTIVITIES AND FEES OF THE RECEIVER**

13. **THIS COURT ORDERS** that the First Report and the activities, decisions and conduct of the Receiver as set out in the First Report are hereby authorized and approved; provided, however, that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

14. **THIS COURT ORDERS** that the Receiver’s statement of interim receipts and disbursements for the period November 9, 2021 to February 28, 2022, as set out in the First Report and attached as Appendix “H” to the First Report, is hereby approved.

15. **THIS COURT ORDERS** that the professional fees of the Receiver for the period between October 12, 2021 to February 24, 2022, in the amount of \$150,029.10, plus Harmonized Sales Tax (“**HST**”) of \$19,503.78 as further set out in the First Report and the Hornbostel Affidavit attached as Appendix “I” to the First Report, are hereby approved.

16. **THIS COURT ORDERS** that the professional fees of Thornton Grout Finnigan LLP, counsel to the Receiver, for the period between October 12, 2021, to February 28, 2022, in the amount of \$63,772.50, plus disbursements of \$8,223.85 and HST of \$9,334.81, for a total of \$81,331.16, as further set out in the First Report and the Thornton Affidavit attached as Appendix “J” to the First Report, are hereby approved.

#### **GENERAL**

17. **THIS COURT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.

18. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver and its agents as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

  
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**Schedule “A”**

**Form of Receiver’s Certificate**

Court File No. CV-21-00670723-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**IN THE MATTER OF Section 101 of the *Courts of Justice Act*, R.S.O. 1990 c.C.43, as amended, and in the matter of Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended**

B E T W E E N:

**PS HOLDINGS 1 LLC, PS HOLDINGS 2 LLC and PS HOLDINGS 3 LLC**

Applicants

-AND-

**2738283 ONTARIO INC., 2738284 ONTARIO INC. and 2738285 ONTARIO INC.**

Respondents

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Justice Penny of the Ontario Superior Court of Justice (the “**Court**”) dated November 9, 2021, MNP Ltd. was appointed as the receiver (the “**Receiver**”) of certain of the undertakings, properties and assets of the Respondents hereto.

B. Pursuant to an Order of the Court dated March 10, 2022 (the “**Approval and Vesting Order**”), the Court approved the asset purchase agreement (the “**Purchase Agreement**”) between the Receiver and 2771280 Ontario Inc. d/b/a Ark Capital Group, as assigned to Essa Rd Development Ltd. (the “**Purchaser**”) dated February 4, 2022 and provided for the vesting in the Purchaser of the Respondents’ right, title and interest in and to the real property set forth in Schedule “B” to the Approval and Vesting Order (together with all buildings thereon, improvements and chattels situate therein, the “**Purchased Assets**”) which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased



Assets; (ii) that the conditions to Closing as set out in the Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the transaction contemplated under the Purchase Agreement has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Purchase Agreement.

**THE RECEIVER CERTIFIES** the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Purchase Agreement;
2. The conditions to Closing as set out in the Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser, as applicable; and
3. The transaction contemplated by the Purchase Agreement has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**MNP LTD., in its capacity as Receiver of the undertaking, property and assets of 2738283 Ontario Inc., 2738284 Ontario Inc. and 2738285 Ontario Inc., and not in its personal capacity**

Per: \_\_\_\_\_  
Name:  
Title:

## Schedule "B"

### Purchased Assets

1. The real property municipally known as **320 Maplevue Drive West, Barrie, Ontario**, which is legally described as PT LT 4 CON 12 INNISFIL AS IN RO1071059 EXCEPT PT 62 PL 51R24730, PTS 1 TO 5 INCL. PL 51R31988 & PTS 2 TO 4 INCL. PL 51R34959, S/T RO1272147; BARRIE, being all of PIN 58730 - 0303 (LT);
2. The real property municipally known as **366 Maplevue Drive West / 692 Essa Road, Barrie Ontario**, which is legally described as CONSOLIDATION OF VARIOUS PROPERTIES PT LT 3 CON 12 INNISFIL BEING PT 1 PL 51R32435 & PT LTS 3 & 4 CON 12 INNISFIL BEING PTS 1 & 2 PL 51R25124, EXCEPT PT 1 PL 51R33177, S/T RO990763; INNISFIL, being all of PIN 58730 - 0304 (LT);
3. The real property municipally known as **664 Essa Road, Barrie, Ontario**, which is legally described as PT LT 4 CON 12 INNISFIL AS IN RO1278789 EXCEPT PT 6 PL 51R31988; BARRIE, being all of PIN 58730 - 0240 (LT); and
4. The real property municipally known as **674 Essa Road, Barrie, Ontario**, which is legally described as PT LT 4 CON 12 INNISFIL AS IN RO1244213 EXCEPT PT 61 51R24730 AND PT 251R33177; S/T RO1272150; BARRIE, being all of PIN 58730 - 0297 (LT).

## **Schedule “C”**

### **Claims to be discharged, released, deleted and expunged from title to the Purchased Assets**

#### **Claims to be discharged, released, deleted and expunged from PIN 58730-0297 (LT):**

1. Instrument No. SC1680318 registered May 13, 2020 being a Charge/Mortgage of Land from the Respondents in favour of the Applicants securing the principal sum of \$13,000,000.
2. Instrument No. SC1680319 registered May 13, 2020 being a Charge/Mortgage of Land from the Respondents in favour of RPN Finance Corp. and 1938272 Ontario Limited securing the principal sum of \$1,200,000.
3. Instrument No. SC1680320 registered May 13, 2020 being a Notice of Assignment of Rents – General from the Respondents in favour of RPN Finance Corp. and 1938272 Ontario Limited.
4. Instrument No. SC1735715 registered December 3, 2020 being a Charge/Mortgage of Land from the Respondents in favour of Computershare Trust Company of Canada securing the principal sum of \$250,000.
5. Instrument No. SC1802963 registered July 12, 2021 being a Charge/Mortgage of Land from the Respondents in favour of John DaRe securing the principal sum of \$160,986.
6. Instrument No. SC1802964 registered July 12, 2021 being a Notice of Assignment of Rents – General from the Respondents in favour of John DaRe.
7. Instrument No. SC1802966 registered July 12, 2021 being a Charge/Mortgage of Land from the Respondents in favour of Maria Louise Larsen securing the principal sum of \$2,500,000.
8. Instrument No. SC1802967 registered July 12, 2021 being a Notice of Assignment of Rents – General from the Respondents in favour of Maria Louise Larsen.
9. Instrument No. SC1812249 registered August 6, 2021 being an Application to Change Name.
10. Instrument No. SC1812250 registered August 6, 2021 being an Application to Change Name.
11. Instrument No. SC1812251 registered August 6, 2021 being an Application to Change Name.
12. Instrument No. SC1842984 registered on November 12, 2021 being an Application to register Court Order.

13. Instrument No. SC1766492 registered March 29, 2021 being a Charge/Mortgage of Land from 2738285 Ontario Inc. in favour of SVN Architects + Planners Inc. securing the principal sum of \$665,889.
14. Instrument No. SC1766493 registered March 29, 2021 being a Notice of Assignment of Rents – General from 2738285 Ontario Inc. in favour of SVN Architects + Planners Inc.
15. Instrument No. SC1861138 registered on January 17, 2022 being a Construction Lien in favour of Glen Schnarr & Associates Inc. in the amount of \$20,001.02.

**Claims to be discharged, released, deleted and expunged from PIN 58730-0240 (LT):**

1. Instrument No. SC1680318 registered May 13, 2020 being a Charge/Mortgage of Land from the Respondents in favour of the Applicants securing the principal sum of \$13,000,000.
2. Instrument No. SC1680319 registered May 13, 2020 being a Charge/Mortgage of Land from the Respondents in favour of RPN Finance Corp. and 1938272 Ontario Limited securing the principal sum of \$1,200,000.
3. Instrument No. SC1680320 registered May 13, 2020 being a Notice of Assignment of Rents – General from the Respondents in favour of RPN Finance Corp. and 1938272 Ontario Limited.
4. Instrument No. SC1735715 registered December 3, 2020 being a Charge/Mortgage of Land from the Respondents in favour of Computershare Trust Company of Canada securing the principal sum of \$250,000.
5. Instrument No. SC1802963 registered July 12, 2021 being a Charge/Mortgage of Land from the Respondents in favour of John DaRe securing the principal sum of \$160,986.
6. Instrument No. SC1802964 registered July 12, 2021 being a Notice of Assignment of Rents – General from the Respondents in favour of John DaRe.
7. Instrument No. SC1802966 registered July 12, 2021 being a Charge/Mortgage of Land from the Respondents in favour of Maria Louise Larsen securing the principal sum of \$2,500,000.
8. Instrument No. SC1802967 registered July 12, 2021 being a Notice of Assignment of Rents – General from the Respondents in favour of Maria Louise Larsen.
9. Instrument No. SC1812249 registered August 6, 2021 being an Application to Change Name.
10. Instrument No. SC1812250 registered August 6, 2021 being an Application to Change Name.

11. Instrument No. SC1812251 registered August 6, 2021 being an Application to Change Name.
12. Instrument No. SC1842984 registered on November 12, 2021 being an Application to register Court Order.
13. Instrument No. SC1861137 registered on January 17, 2022 being a Construction Lien in favour of Glen Schnarr & Associates Inc. in the amount of \$20,001.02.

**Claims to be discharged, released, deleted and expunged from PIN 58730-0304 (LT):**

1. Instrument No. SC1680318 registered May 13, 2020 being a Charge/Mortgage of Land from the Respondents in favour of the Applicants securing the principal sum of \$13,000,000.
2. Instrument No. SC1680319 registered May 13, 2020 being a Charge/Mortgage of Land from the Respondents in favour of RPN Finance Corp. and 1938272 Ontario Limited securing the principal sum of \$1,200,000.
3. Instrument No. SC1680320 registered May 13, 2020 being a Notice of Assignment of Rents – General from the Respondents in favour of RPN Finance Corp. and 1938272 Ontario Limited.
4. Instrument No. SC1735715 registered December 3, 2020 being a Charge/Mortgage of Land from the Respondents in favour of Computershare Trust Company of Canada securing the principal sum of \$250,000.
5. Instrument No. SC1802963 registered July 12, 2021 being a Charge/Mortgage of Land from the Respondents in favour of John DaRe securing the principal sum of \$160,986.
6. Instrument No. SC1802964 registered July 12, 2021 being a Notice of Assignment of Rents – General from the Respondents in favour of John DaRe.
7. Instrument No. SC1802966 registered July 12, 2021 being a Charge/Mortgage of Land from the Respondents in favour of Maria Louise Larsen securing the principal sum of \$2,500,000.
8. Instrument No. SC1802967 registered July 12, 2021 being a Notice of Assignment of Rents – General from the Respondents in favour of Maria Louise Larsen.
9. Instrument No. SC1812249 registered August 6, 2021 being an Application to Change Name.
10. Instrument No. SC1812250 registered August 6, 2021 being an Application to Change Name.

11. Instrument No. SC1812251 registered August 6, 2021 being an Application to Change Name.
12. Instrument No. SC1842984 registered on November 12, 2021 being an Application to register Court Order.
13. Instrument No. SC1861139 registered on January 17, 2022 being a Construction Lien in favour of Glen Schnarr & Associates Inc. in the amount of \$20,001.02.

**Claims to be discharged, released, deleted and expunged from PIN 58730-0303 (LT):**

1. Instrument No. SC1680318 registered May 13, 2020 being a Charge/Mortgage of Land from the Respondents in favour of the Applicants securing the principal sum of \$13,000,000.
2. Instrument No. SC1680319 registered May 13, 2020 being a Charge/Mortgage of Land from the Respondents in favour of RPN Finance Corp. and 1938272 Ontario Limited securing the principal sum of \$1,200,000.
3. Instrument No. SC1680320 registered May 13, 2020 being a Notice of Assignment of Rents – General from the Respondents in favour of RPN Finance Corp. and 1938272 Ontario Limited.
4. Instrument No. SC1735715 registered December 3, 2020 being a Charge/Mortgage of Land from the Respondents in favour of Computershare Trust Company of Canada securing the principal sum of \$250,000.
5. Instrument No. SC1802963 registered July 12, 2021 being a Charge/Mortgage of Land from the Respondents in favour of John DaRe securing the principal sum of \$160,986.
6. Instrument No. SC1802964 registered July 12, 2021 being a Notice of Assignment of Rents – General from the Respondents in favour of John DaRe.
7. Instrument No. SC1802966 registered July 12, 2021 being a Charge/Mortgage of Land from the Respondents in favour of Maria Louise Larsen securing the principal sum of \$2,500,000.
8. Instrument No. SC1802967 registered July 12, 2021 being a Notice of Assignment of Rents – General from the Respondents in favour of Maria Louise Larsen.
9. Instrument No. SC1812249 registered August 6, 2021 being an Application to Change Name.
10. Instrument No. SC1812250 registered August 6, 2021 being an Application to Change Name.

11. Instrument No. SC1812251 registered August 6, 2021 being an Application to Change Name.
12. Instrument No. SC1842984 registered on November 12, 2021 being an Application to register Court Order.
13. Instrument No. SC1861139 registered on January 17, 2022 being a Construction Lien in favour of Glen Schnarr & Associates Inc. in the amount of \$20,001.02.

## Schedule "D"

### Permitted Encumbrances, Easements and Restrictive Covenants related to the Purchased Assets

(unaffected by the Vesting Order)

Any of the following encumbrances:

1. Minor Encroachments: Minor encroachments from the real property over neighbouring lands and/or permitted under agreements with neighbouring landowners and any fences or concrete curbs and minor encroachments over the real property from neighbouring land and/or permitted under agreements with neighbouring landowners and any fences and concrete curbs.
2. Crown Grant: Any subsisting restrictions, exceptions, reservations, limitation, provisos and conditions (including, with limitation, royalties, reservation of mines, mineral rights and timber rights, access to navigable waters and similar rights) expressed in any original grants from the Crown of the lands comprising the real property and any statutory limitations, exceptions, reservations and qualifications.
3. Restrictions, Zoning, etc.: Zoning, land use and building restrictions, by-laws, regulations and ordinances of any Governmental Authority, including municipal by-laws and regulations, airport zoning regulations, restrictive covenants and other land use limitations in favour of or imposed or reserved by any Governmental Authority.
4. Work Order: Any and all Work Orders issued by any Governmental Authority.
5. Easements: Any unregistered or registered easements required for the supply of domestic utility services to the real property.
6. Survey matters: Encroachments, deficiencies or other matters disclosed by any plan of survey in respect of the real property or any part thereof.
7. Taxes/Utilities: Encumbrances or prior claims for real property taxes (which term includes charges, rates and assessments) or charges or levies for electricity, power, gas, water and other services and utilities in connection with the real property that have accrued but are not yet due and owing or, if due and owing, are adjusted for on Closing.
8. Restrictive Covenants: Restrictive covenants, private deed restrictions, rights-of-way, facility cost sharing agreements, servicing agreements, crane swing/tie back agreements, reciprocal use agreements or other similar land use control agreements or rights in land (including, without limitation, restrictions, rights-of-way and servitudes for sewers, drains, gas and oil pipelines, gas and water mains, electric light and power and telephone or telegraph or cable television conduits, poles, wires and cables) granted to other persons or property, or reserved by other persons or the benefit of other property.



9. Applicable Laws: The provisions of all Applicable Laws, including by-laws, regulations, ordinances and similar instruments relating to development and zoning at the real property.
10. Land Titles Act: The exceptions and qualifications contained in Section 44 of the *Land Titles Act* (Ontario), save and except paragraph 5 thereof relating to the *Family Law Act*, paragraph 11 thereof respecting the *Planning Act* (Ontario) and escheats/forfeiture to the Crown.
11. Registered Agreements: Registered agreements with any Governmental Authorities or public utilities, including subdivision agreements, development agreements, engineering, grading or landscaping agreements and similar agreements.
12. Leases of real property: Any leases in respect of the real property to be assigned to the Purchaser.

**Specific Permitted Encumbrances on PIN 58730-0297 (LT):**

1. Instrument No. RO1133920 registered December 4, 1990 being a Bylaw of the City of Barrie.
2. Instrument No. RO1272150 registered November 30, 1994 being a Transfer Easement in favour of the Corporation of the City of Barrie to construct and maintain a watercourse and sanitary sewer and pipes for a sanitary sewer with access for workmen and agents.

**Specific Permitted Encumbrances on PIN 58730-0304 (LT):**

1. Instrument No. RO990763 registered February 23, 1988 being a Transfer Easement in favour of Bell Canada to construct and maintain telephone and telecommunication facilities.

**Specific Permitted Encumbrances on PIN 58730-0303 (LT):**

1. Instrument No. RO1133920 registered December 4, 1990 being a Bylaw of the City of Barrie.
2. Instrument No. RO1272147 registered November 30, 1994 being a Transfer Easement in favour of the Corporation of the City of Barrie to construct and maintain a watercourse and sanitary sewer and pipes for a sanitary sewer with access for workmen and agents.

**IN THE MATTER OF THE RECEIVERSHIP OF 2738283 ONTARIO INC., 2738284 ONTARIO INC. and 2738285 ONTARIO INC.  
AND IN THE MATTER OF AN APPLICATION UNDER section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended,  
and section 101 of the *Courts of Justice Act*, RSO 1990, c C.43, as amended**

**PS HOLDINGS 1 LLC, PS HOLDINGS 2 LLC  
and PS HOLDINGS 3 LLC**

and

**2738283 ONTARIO INC., 2738284 ONTARIO INC.  
and 2738285 ONTARIO INC.**

Applicants

Respondents

Court File No.: CV-21-00670723-00CL

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**

Proceedings commenced at Toronto

**APPROVAL AND VESTING ORDER**

**Thornton Grout Finnigan LLP**

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Lawyers for the Court-Appointed Receiver, MNP Ltd.